

Decision 04-09-012 September 2, 2004

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of California Water Service Company (U 60 W), a Corporation, for an Order Establishing a Moratorium on New Service Connections in Excess of 250 Service Connections in the Coast Springs Water System Division of the Redwood Valley District.

Application 02-03-032  
(Filed March 14, 2002;  
petitions to modify filed  
May 18, 2004, and  
June 17, 2004)

**ORDER MODIFYING DECISION 03-03-037**

**Summary**

California Water Service Company's (CalWater) petition for modification of Decision (D.) 03-03-037 is granted. Joseph Farais' petition for modification of D.03-03-037 is moot. CalWater's predecessor previously contracted to provide upon future request two residential water connections in exchange for an easement associated with a new water storage tank. Those two reserved connections are granted an exemption from the approved connections list procedures established in D.03-03-037, and are allowed to remain on the approved service connections list until service is requested and provided. D.03-03-037 is modified accordingly.

**Discussion**

**The Moratorium**

In D.03-03-037, the Commission ordered CalWater to establish a moratorium on new water connections in its Coast Springs water system. Under the moratorium, CalWater may not exceed the number of connections allowed

for the system by the California Department of Health services (currently, 255 connections). CalWater maintains an “approved connections list,” a list of unserved applicants to whom it has committed its remaining available connections, and a “waiting list,” a prioritized list of those next in line to receive service commitments when connections become available.<sup>1</sup>

D.03-03-037 noted how valuable a commitment to provide water is in the Coast Springs system. It is much more difficult for lot owners to sell their properties if potential buyers cannot be assured a water connection will be made available, and when they are sold, lack of water service commitments may drive otherwise-buildable parcels’ values down significantly. Consequently, no applicant on the approved connections list was to be allowed to hold a commitment indefinitely or absent a demonstrated intent to use it. Thus, D.03-03-037 added this key requirement to CalWater’s tariff:

Applicants requesting water service that would cause the Coast Springs water system to exceed 250 service connections, or such higher number of connections as DHS may subsequently allow under Coast Springs water system’s domestic water supply permit, will be placed on a waiting list. Once additional service connections become available, applicants on the waiting list will be notified in the order they were received. Any previously accepted application for water service in the Coast Springs water system will be revoked if proof of a valid building permit is not provided within 18 months of acceptance of the application for water service or [the date this order was mailed], whichever is later. Applicants who have had their approval revoked in this manner will be placed at the end of the waiting list. This Special Condition shall expire on [three years after the

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<sup>1</sup> The approved connections list currently has approximately 12 applicants, and there are approximately nine applicants on the waiting list.

date this order was mailed] absent further order of the Commission.

In D.03-03-037, the Commission also established a set of guidelines CalWater must use in administering requests for service while the moratorium is in effect. Among those guidelines were these:

- CalWater was to begin with the approved connections list and the waiting list as of August 2002, update them for changes as appropriate through the effective date of D.03-03-037, and then use the resulting lists as the basis for moving forward.
- A new lot owner may succeed to the former owner's approved connection or rank on the waiting list.
- Revisions and exceptions to the approved connection list procedure and waiting list procedure may be made only with Commission approval. Approval may be either by formal application and decision, or with the concurrence of the Water Utilities Division, by advice letter and Commission resolution.

### **Joseph Farais' Petition**

The Commission has received two petitions to modify D.03-03-037, both seeking exceptions to the approved connections list procedure. We made moot the first of those, filed by Joseph Farais, when we issued Resolution W-4489 ordering CalWater to retain Farais on the approved service connections list for an additional six months before he must either provide proof of a valid building

permit or be moved the end of the waiting list.<sup>2</sup> We address below the second petition for modification, filed by CalWater.

### **CalWater's Petition**

CalWater acquired Coast Springs as part of its acquisition of Dominguez Water Company in May 2000.<sup>3</sup> At the time, Dominguez was under Commission order to “make all improvements necessary to remove the moratorium placed on Coast Springs by the Department of Health Services.”<sup>4</sup> In late-1999, before the acquisition, Dominguez replaced a 126,000 gallon storage tank with a 210,000 gallon tank.<sup>5</sup> As part of that tank project, Dominguez entered into an agreement with two local property owners to obtain an easement which enabled it to replace its existing storage tank with a larger tank and to have legal access to a road leading to the tank and its pipeline. In exchange, Dominguez granted the property owners, Cynthia Christopher and Geronima Belen, two residential service connections at any time upon their future request. Christopher and Belen subsequently sold their property to Saint Anthony's Monastery, and the

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<sup>2</sup> Farais and others on the approved connections list when D.03-03-037 was mailed had until September 17, 2004 to provide proof of a building permit. Farais' petition claimed he did not receive the initial notification of these new procedures and his deadline. CalWater filed an advice letter seeking the same six-month extension for Farais that Farais sought in his petition for modification. Resolution W-4489 approved that advice letter.

<sup>3</sup> D.00-05-047.

<sup>4</sup> D.99-07-041, Ordering Paragraph 1.f.

<sup>5</sup> That 210,000 gallon tank was a major factor Dominguez cited to DHS in 1999 as support for increasing the number of permitted connections from 220 to the later 250 level.

Monastery and CalWater succeeded to their predecessors' easement and connection agreement. These transactions occurred before the Commission proceeding leading to the moratorium imposed in D.03-03-037, and the Monastery property was shown as holding two approved connections on the initial approved service connections list established by that decision.

In June 2003, Jeffrey Young, a local property owner who has since received a service connection and commenced service, filed a formal complaint, Case (C.) 03-06-038, against CalWater. Young sought to have the Monastery property and its two connections removed from the approved connections list, thereby freeing up two connections to the benefit of those on the waiting list. After holding an evidentiary hearing, we issued D.04-02-043 denying Young's complaint and making, among others, the following findings of fact and conclusion of law:

Findings of Fact:

5. Prior to the proceeding leading to D.03-03-037, CalWater had a legal obligation to provide two service connections to the Monastery Property, and these connections had to be provided any time upon request when the owners chose to request service.
6. The two connections to the Monastery Property were properly included in the initial connection list approved by the Commission in D.03-03-037.
7. However, the fact that CalWater was required to provide these two connections "at any time upon request" was not recognized in D.03-03-037.
8. Failure to provide the two connections at any time upon request would cause CalWater to lose its easement in the Monastery Property.

9. It is in the interest of all Coast Springs Water System customers that CalWater retain its easement in the Monastery Property.

Conclusion of Law:

2. CalWater should file a petition to modify D.03-03-037 to exempt the Monastery Property from the 18-month limitation for names to remain on the connection list without a building permit.

CalWater subsequently filed this petition for modification to exempt the Monastery Property as the Commission concluded it should. We take official notice of D.04-02-043 and those parts of the C.03-06-038 record reflected in today's decision.

CalWater provided notice of its petition to modify to those on the service list in A.02-03-032, the parties in C.03-06-038, those on the then-current approved connections list and waiting list, and unserved lot owners in the Coast Springs service territory. No protests or responses were filed. No party other than CalWater attended the prehearing conference held July 22, 2004. The Commission is not aware of any opposition to granting the relief CalWater seeks.

We will grant CalAm's request. As we found in D.04-02-043 after an evidentiary hearing, CalWater had, and it still has, a legal obligation to provide two service connections to the Monastery Property upon request; failure to provide the two connections would cause CalWater to lose its easement in the Monastery Property; and that loss would be counter to the interest of all Coast Springs water system customers. No further evidentiary hearing is required.

This is an uncontested matter pertaining solely to water companies. As such, it is exempt under Pub. Util. Code § 311(g)(3) from the public review and comment requirements of § 311(g).

### **Assignment of Proceeding**

Susan Kennedy is the Assigned Commissioner and James McVicar is the assigned Administrative Law Judge in this proceeding.

### **Findings of Fact**

1. CalWater has a contractual obligation to provide two residential service connections to the Monastery Property upon request.
2. Failure to provide two connections on request would cause CalWater to lose its easement in the Monastery Property.
3. Loss of CalWater's easement would be counter to the interest of all Coast Springs water system customers.
4. There is no known opposition to granting CalWater's request.
5. No evidentiary hearing is required.

### **Conclusions of Law**

1. Joseph Farais' petition for modification is moot.
2. CalWater's petition for modification should be granted. The Monastery Property should be granted an exemption from the procedures established in D.03-03-037 and allowed to remain on the approved service connections list for two residential connections until service is requested and provided.
3. For administrative efficiency, this order should be effective immediately.

#### **IT IS ORDERED** that:

1. The following Ordering Paragraphs 1(a) and 1(b) are added to Decision (D.) 03-03-037:

1(a). CalWater may reserve for the property formerly owned by Cynthia Christopher and Geronima Belen and subsequently sold to Saint Anthony's Monastery two residential water connections to be provided upon future request. Those two reserved connections are exempted from the requirement to

provide a building permit within 18 months or be dropped from the approved service connections list.



1(b). CalWater shall file and make effective on or before September 16, 2004 an advice letter appending the following wording to the tariff Schedule No. RV-CS-1 special condition set forth in Ordering Paragraph 1:

Two residential water connections are reserved for the property formerly owned by Cynthia Christopher and Geronima Belen and subsequently sold to Saint Anthony's Monastery. Those two reserved connections are exempt from the requirement to provide a building permit within 18 months or be dropped from the approved service connections list.

2. California Water Service Company's petition to modify D.03-03-037 is granted to the extent set forth above. Joseph Farais' petition to modify D.03-03-037 is dismissed as moot.

3. Application 02-03-032 is closed.

This order is effective today.

Dated September 2, 2004, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
CARL W. WOOD  
LORETTA M. LYNCH  
GEOFFREY F. BROWN  
SUSAN P. KENNEDY  
Commissioners